

Introduced by Senators Poochigian, Aanestad, Ackerman, Battin, Denham, Hollingsworth, Johnson, Knight, Margett, McClintock, McPherson, Morrow, and Oller

(Coauthors: Assembly Members Aghazarian, Benoit, Bogh, Cogdill, Garcia, La Malfa, Leslie, Maze, Mountjoy, Nakanishi, Pacheco, Plescia, Runner, Samuelian, and Wyland)

February 21, 2003

An act to amend Section 1205, and to repeal Section 3302, of the Labor Code, relating to employment, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 1010, as introduced, Poochigian. Employment law.

(1) Existing law provides that when a local jurisdiction expends funds that have been provided to it by a state agency, operates a program that has received assistance from a state agency, or engages in an activity that has received assistance from a state agency, labor standards established by the local jurisdiction through exercise of local police powers or spending powers shall take effect with regard to that expenditure, program, or activity, so long as those labor standards are not in explicit conflict with, or explicitly preempted by, state law. A state agency may not require as a condition to the receipt of state funds or assistance that a local jurisdiction refrain from applying labor standards established by the local jurisdiction to expenditures, programs, or activities supported by the state funds or assistance in question.

This bill would delete these provisions.

(2) Existing law provides that when a licensed contractor enters an agreement with a temporary employment agency, employment referral

service, labor contractor, or other similar entity for the entity to supply the contractor with an individual to perform acts or contracts for which the contractor's license is required and the licensed contractor is responsible for supervising the employee's work, the temporary employment agency, employment referral service, labor contractor, or other similar entity shall pay workers' compensation premiums based on the contractor's experience modification rating, subject to specified conditions.

This bill would repeal these provisions.

(3) This bill would state the intent of the Legislature to enact legislation to repeal changes and additions to existing law made by specified statutes.

(4) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: ²/₃. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) The state is currently experiencing a sustained economic
4 downturn. According to the Legislative Analyst, this state has lost
5 over 230,000 manufacturing jobs in just the last two years.

6 (b) State spending has increased by over 30 percent in the last
7 four years, and the Legislative Analyst projects that the state will
8 experience operating deficits of \$12 to \$16 billion every year
9 unless significant cuts in state spending are implemented.

10 (c) The state budget crisis of 2001 and 2002 will worsen if
11 employers continue to leave the state and prospective employers
12 are discouraged from siting operations here because of a bad
13 business climate.

14 (d) While other states are facing fiscal pressures, California's
15 taxpayers, both individuals and businesses, shoulder a
16 disproportionate share of the fiscal burden. State governments
17 faced a nationwide combined budget gap of more than \$40 billion
18 in 2002; this state's \$23 billion budget deficit last year represented
19 one-half of the combined deficits, with no relief in sight.

20 (e) According to the Milken Institute, in a study conducted in
21 early 2002, this state has the third highest overall cost of doing



1 business in the United States, 32 percent above the national
2 average, and the costs of doing business in this state are the highest
3 in the West.

4 (f) California's tax burden has increased nearly 4 percent,
5 while nearby states have lowered their tax burden an average of 7.8
6 percent in the last decade.

7 (g) The increased costs of doing business in this state are in
8 large part the result of the onerous legislation enacted in recent
9 years and will be exacerbated by the legislation that will take effect
10 on January 1, 2003.

11 SEC. 2. It is the intent of the Legislature to enact legislation
12 to repeal changes and additions to existing law made by Chapter
13 134 of the Statutes of 1999, Chapter 938 of the Statutes of 2001,
14 and Chapter 6 of the Statutes of 2002.

15 SEC. 3. Section 1205 of the Labor Code is amended to read:

16 1205. ~~(a) As used in this section:~~

17 ~~(1) "Local jurisdiction" means any city, county, district, or~~
18 ~~agency, or any subdivision or combination thereof.~~

19 ~~(2) "State agency" means any state office, officer, department,~~
20 ~~division, bureau, board, commission, or agency, or any~~
21 ~~subdivision thereof.~~

22 ~~(3) "Labor standards" means any legal requirements regarding~~
23 ~~wages paid, hours worked, and other conditions of employment.~~

24 ~~(b) Nothing in this part shall be deemed to restrict the exercise~~
25 ~~of local police powers in a more stringent manner.~~

26 ~~(c) When a local jurisdiction expends funds that have been~~
27 ~~provided to it by a state agency, operates a program that has~~
28 ~~received assistance from a state agency, or engages in an activity~~
29 ~~that has received assistance from a state agency, labor standards~~
30 ~~established by the local jurisdiction through exercise of local~~
31 ~~police powers or spending powers shall take effect with regard to~~
32 ~~that expenditure, program, or activity, so long as those labor~~
33 ~~standards are not in explicit conflict with, or explicitly preempted~~
34 ~~by, state law. A state agency may not require as a condition to the~~
35 ~~receipt of state funds or assistance that a local jurisdiction refrain~~
36 ~~from applying labor standards established by the local jurisdiction~~
37 ~~to expenditures, programs, or activities supported by the state~~
38 ~~funds or assistance in question.~~

39 SEC. 4. Section 3302 of the Labor Code is repealed.

1 ~~3302. (a) (1) When a licensed contractor enters an~~
2 ~~agreement with a temporary employment agency, employment~~
3 ~~referral service, labor contractor, or other similar entity for the~~
4 ~~entity to supply the contractor with an individual to perform acts~~
5 ~~or contracts for which the contractor's license is required under~~
6 ~~Chapter 9 (commencing with Section 7000) of Division 3 of the~~
7 ~~Business and Professions Code and the licensed contractor is~~
8 ~~responsible for supervising the employee's work, the temporary~~
9 ~~employment agency, employment referral service, labor~~
10 ~~contractor, or other similar entity shall pay workers' compensation~~
11 ~~premiums based on the contractor's experience modification~~
12 ~~rating.~~

13 ~~(2) The temporary employment agency, employment referral~~
14 ~~service, labor contractor, or other similar entity described in~~
15 ~~paragraph (1) shall report to the insurer both of the following:~~

16 ~~(A) Its payroll on a monthly basis in sufficient detail to allow~~
17 ~~the insurer to determine the number of workers provided and the~~
18 ~~wages paid to these workers during the period the workers were~~
19 ~~supplied to the licensed contractor.~~

20 ~~(B) The licensed contractor's name, address, and experience~~
21 ~~modification factor as reported by the licensed contractor.~~

22 ~~(C) The workers' compensation classifications associated with~~
23 ~~the payroll reported pursuant to subparagraph (A). Classifications~~
24 ~~shall be assigned in accordance with the rules set forth in the~~
25 ~~California Workers' Compensation Uniform Statistical Reporting~~
26 ~~Plan published by the Workers' Compensation Insurance Rating~~
27 ~~Bureau.~~

28 ~~(b) The temporary employment agency, employment referral~~
29 ~~service, labor contractor, or other similar entity supplying the~~
30 ~~individual under the conditions specified in subdivision (a) shall~~
31 ~~be solely responsible for the individual's workers' compensation,~~
32 ~~as specified in subdivision (a).~~

33 ~~(c) Nothing in this section is intended to change existing law in~~
34 ~~effect on December 31, 2002, as it relates to the sole remedy~~
35 ~~provisions of this division and the special employer provisions of~~
36 ~~Section 11663 of the Insurance Code.~~

37 ~~(d) A licensed contractor that is using a temporary worker~~
38 ~~supplied pursuant to subdivision (a) shall notify the temporary~~
39 ~~employment agency, employment referral service, labor~~

1 ~~contractor, or other similar entity that supplied that temporary~~
2 ~~worker when either of the following occurs:~~

3 ~~(1) The temporary worker is being used on a public works~~
4 ~~project.~~

5 ~~(2) The contractor reassigns a temporary worker to a position~~
6 ~~other than the classification to which the worker was originally~~
7 ~~assigned.~~

8 ~~(c) A temporary employment agency, employment referral~~
9 ~~service, labor contractor, or other similar entity may pass through~~
10 ~~to a licensed contractor any additional costs incurred as a result of~~
11 ~~this section.~~

12 SEC. 5. This act is an urgency statute necessary for the
13 immediate preservation of the public peace, health, or safety
14 within the meaning of Article IV of the Constitution and shall go
15 into immediate effect. The facts constituting the necessity are:

16 In order to help alleviate the current state budget shortfall and
17 improve the state's economy at the earliest possible time, it is
18 necessary for this act to take effect immediately.

